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MAIL BRANCH

ORIGINAL  
FILE

Office of the Secretary  
Federal Communications Commission  
1919 M Street N.W.  
Washington D.C.

December 21st, 1992

**MM # 92-258**  
**REPLY COMMENTS**

Dear Sirs,

It has been my understanding that comments submitted, postmarked by this date would be accepted into the record. I hope this is accurate, if not I would ask leniency as I am doing this for the first time.

Grateful for your attention in this matter.

Rika Welsh  
Executive Director

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Before the  
Federal Communications Commission  
Washington, DC 20554

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In the Matter of

FCC MAIL ROOM

Implementation of Section 10 of the Cable Television )  
Consumer Protection and Competition Act of 1992 ) MM Docket No. 92-258  
)  
Indecent Programming and Other Types of )  
Materials on Cable Access Channels )

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REPLY COMMENTS OF

DEC 28 1992

The comments filed by the cable industry in this proceeding indicate that, if cable companies are given broad authority to implement the regulations adopted by the FCC pertaining to programming on access channels, many of them will exercise it broadly, even if the result is to prevent the use of access channels altogether.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Such a result cannot possibly be reconciled with the basic purposes of the Cable Act, which include promoting diversity. As a result, Malden Access Television urges the Commission to reject any proposal that would leave the operator with broad discretion to ban programming on public access channels. Instead, as urged by the Alliance for Community Media and others, the FCC must adopt rules that carefully and narrowly define the circumstances under which access programming can be banned.

There are several good reasons why this is so (aside from the constitutional and statutory reasons identified in the comments filed by the Alliance for Community Media.)

Several operators have suggested that, if they are given the broad authority to review PEG access programming for content, the result will be increased expense and delay in cablecasting programming. M.A.T.V has a program that a local school teacher has produced twice a month for the last two and a half years called LIVE ON TAPE. The LIVE component of this program which explores current community affairs and issues with participation of the Mayor, school official or local leaders is the essence of this program. To remove that immediacy would render the entire effort valueless.

Some operators have suggested that they would exercise their authority over programming selectively. Indeed, operators cannot be relied upon to exercise any government-given authority to censor fairly or evenly.

THAT concept is in itself, is at best, unconstitutional.

Some operators have proposed that they be allowed to pre-screen programming at will. A pre-screening rule, or any rule that permitted the operator to exercise advance approval over programming, could make access unaffordable. Were the costs of such a process to be allocated to the cost of providing access, which of course they would, it would seriously impact M.A.T.V.'s ability to provide the valuable resource it does today. MATV is a 3 staff operation, our budget is tightly designed to maximize each dollar. **There is no room for a badly needed part time office assistant, (as this typing job can attest) there is no room for any additional costs without a real danger of destroying the organization itself.**

Some operators have suggested that, if they are given broad authority, they will require access centers themselves to make certifications as to the content of programming. However, access center budgets are often fixed as a result of contracts with operators and/or cities, which specify what the access organization can and cannot do. Allowing operators to impose new obligations on access centers is not required by the amendments to the Cable Act, and would require access centers to take on new tasks without compensation. There would be no way M.A.T.V.'s Board of Directors could assume a new policy which would include censorship duties. It would fly in direct opposition to every other policy in place, and would cause an impossible conflict with our stated mission. **Community leaders have spent hundreds of hours, community by community, establishing rules procedures and mission statements that best suit their needs and have implemented them without problems, in 99 % of cases. There is no reason to allow operators to interfere with access operations, established and operating by mutual agreement.**

Several operators have suggested they wish to use the FCC rule to require producers to provide insurance, indemnification and in some cases, bonds. **Individual Insurance Bonds are unworkable as they would drive the cost of production out of the hands of every producer currently involved at MATV, and would therefore shut us down.**

Not only would this interfere with speech, the industry has not shown it is necessary to do so. **At MATV our producers are already required to become certified, through the training process. The courses include specific education on "protected and unprotected" speech under the 1st Amendment. We want our producers to thoroughly understand these issues, and to incorporate them into the understanding of their responsibilities as Producers on Public Access. This is common practice throughout Public Access Training. It has been promoted regularly, at the "Alliance**

**for Community Media's Annual Convention as a part of training workshop curriculum, for the past 15 years.**

**Our producers flag their own programs for profanity or anything which could be deemed controversial, at the time they request a scheduling slot. This automatically places the program after 10:00 PM. Disclaimers are required on all posted schedules and at the time of cablecasting. Indemnification agreements are regularly signed by all producers. This has been policy since our first cablecast in August of 1989, and is common practice among the majority of Access Centers. There is no reason to replace these agreements with a national standard, which may present serious legal questions.**

For the reasons stated above, the Commission should reject proposals by the cable industry that cable companies be granted broad authority to censor PEG access programming, and adopt proposals made by the **Alliance for Community Media.**

Rika Welsh, Executive Director  
Malden Access Television  
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Malden, MA 02148

December 21st, 1992